

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LORILLARD TOBACCO COMPANY, a
Delaware corporation,

Case No.: 05-70804
Hon. Paul D. Borman
Magistrate Judge Capel

Plaintiff,

v.

YAZAN'S SERVICE PLAZA, INC., a
Michigan corporation

Defendant.

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Nicole M. Clinton (P66519)
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**ORDER GRANTING PLAINTIFF'S MOTION
FOR SANCTIONS DUE TO DEFENDANT'S FAILURE TO
COMPLY WITH A COURT ORDER**

At a session of said Court held in the Federal Building, City of Flint, County of Genesee, and State of Michigan, on May 25, 2006

PRESENT: HON. WALLACE CAPEL
U.S. Magistrate Judge

This matter having come before the Court upon Plaintiff's Motion for Sanctions Due to Defendant's Failure to Comply With A Court Order, the Court having heard arguments from both parties and being otherwise duly advised in the premises:

IT IS HEREBY ORDERED that Plaintiff's Motion is granted as follows:

1. Defendant intentionally and willfully violated the Court's Order to preserve and produce the evidence set forth in the Court's Order Granting Plaintiff's Motion for Show Cause Order and Sanctions due to Defendant's Failure to Comply with a Court Order.

2. As a sanction for Defendant's willful and deliberate violation of the Court's Order, Plaintiff is entitled to an adverse inference and a jury instruction that the jury may infer that the Defendant's computer contained information relevant to this lawsuit, that Defendant deliberately destroyed that information contrary to an Order of this Court, and that the information that was contained on Defendant's computer would have supported the claims and defenses of Plaintiff Lorillard Tobacco Company in this action and would have been adverse to the claims and defenses set forth by Defendant Yazan's Service Plaza, Inc in this action.

3. As an additional sanction for Defendant's willful and deliberate violation of the Court's Order, Defendant is ordered to pay Plaintiff the sum of \$6,738.50 in costs and attorney fees within thirty days or on or before June 16, 2006.

IT IS SO ORDERED.

s/ Wallace Capel, Jr.
U.S. Magistrate Judge

Approved as to form:

By: /s/ Nicole M. Clinton
Kathleen A. Lang (P34695)
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Dated: May 23, 2006

By: /s/ Benjamin J. Aloia (w/ consent)
Benjamin J. Aloia (P54424)
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Dated: May 23, 2006

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